

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

| | | |
|-------------------------------------|---|------------------|
| JESUS GARCIA, individually and on | § | |
| behalf of the ESTATE OF MARTHA | § | |
| GARCIA Deceased, and a/n/f of minor | § | CIVIL ACTION NO. |
| children, NG, E.G. R.G., J.G, C.G., | § | |
| and EG | § | H:22-CV-0306 |
| <i>Plaintiffs,</i> | § | |
| v. | § | |
| | § | |
| OAKBEND MEDICAL CENTER, FORT | § | |
| BEND FAMILY HEALTH CENTER INC. | § | |
| d/b/a ACCESS HEALTH and AIDA | § | |
| LUDIVINA VIGIL-SANCHEZ, M.D. | § | |
| | § | |
| <i>Defendants.</i> | § | |

NOTICE OF REMOVAL

The United States of America, through the undersigned Assistant U.S. Attorney, and on behalf of federal employees Fort Bend Family Health Center, Inc. and Aida Ludivina Vigil-Sanchez, M.D., files this Notice of Removal upon showing:

1.

This matter involves a civil action for negligence against federal employee, Aida Ludivina Vigil-Sanchez, M.D., who was at all times acting the scope of her duties with the Fort Bend Family Health Center, Inc., a federally supported health care facility. The Health Resources and Services Administration (HRSA), in accordance with the Federally Supported Health Centers Assistance Act (FSHCAA), as amended, sections 224(g)-(n) of the Public Health Service (PHS) Act, 42 U.S.C. §§ 233(g)-(n), has "deemed" the Fort Bend Family Health Center, Inc., an employee of the PHS, for the purposes of section 224, effective 1/1/2019 through 12/21/2019, and its coverage has continued without interruption since that time. Section 224

provides liability protection under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346(b), 2671 *et seq.*, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, and related functions by PHS employees while acting within the scope of employment. This protection is exclusive of any other civil action or proceeding.

2.

Because plaintiff's civil action was commenced in State court against a federal employee acting within the scope of her duties with a federally supported health care facility, this action is properly removed under the Federally Supported Health Care Assistance Act, 42 U.S.C. § 233.

WHEREFORE, this civil action is properly and timely removed by the United States of American on behalf of the Fort Bend Family Health Center and Aida Ludvian Vigil-Sanchez, M.D.

Respectfully submitted,

JENNIFER B. LOWERY
United States Attorney

/s/ Fred T. Hinrichs

FRED T. HINRICHS
Assistant United States Attorney
Attorney in Charge
Texas Bar No. 24003580
1000 Louisiana, Ste. 2300
Houston, Texas 77002
Tel: 713- 567-9529
Fax: 713-718-3303
Fred.Hinrichs@usdoj.gov
Attorney for Fort Bend Family
Health Center and Aida Ludvian
Vigil-Sanchez, M.D.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was electronically served through the court's electronic filing system, or by U.S. Mail postage prepaid, on this 31st day of January 2022, to the following counsel of record:

Bridget Ann White
Mark O. Midani
1616 S. Voss, Suite 450
Houston, Texas 77057

Donald S. Stephens
Stephens & Associates
3129 Kingsley, Ste. 130
Pearland, Texas 77584

/s/ Fred T. Hinrichs

Assistant U.S. Attorney